

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21136

Application **30437** of **Dinesh Maniar**
400 Oyster Point Boulevard, No. 415
South San Francisco, CA 94080

filed on **March 20, 1995**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Tributary to

Unnamed Stream

Steamboat Slough thence

Third Napa Slough thence

Second Napa Slough thence

Sonoma Creek thence

San Pablo Bay

within the County of **Sonoma**.

2. Location of point of diversion (POD)

By California Coordinate System of 1927, in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
POD #1: North 211,700 feet and East 1,885,400 feet	SE¼ of SW¼	27	5N	5W	MD
POD #2: North 212,400 feet and East 1,885,600 feet	NE¼ of SW¼	27	5N	5W	MD
POD #3: North 211,500 feet and East 1,887,250 feet	SE¼ of SE¼	27	5N	5W	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Irrigation, Frost Protection, Heat Control	SW¼ of NW¼	26	5N	5W	MD	2
	NW¼ of SW¼	26	5N	5W	MD	19
	SW¼ of SW¼	26	5N	5W	MD	15
	SE¼ of NW¼	27	5N	5W	MD	7
	SW¼ of NW¼	27	5N	5W	MD	5
	SE¼ of NE¼	27	5N	5W	MD	10
	SW¼ of NE¼	27	5N	5W	MD	2
	NW¼ of SW¼	27	5N	5W	MD	30
	NE¼ of SW¼	27	5N	5W	MD	35
	SE¼ of SW¼	27	5N	5W	MD	15
	NW¼ of SE¼	27	5N	5W	MD	28
	NE¼ of SE¼	27	5N	5W	MD	35
	SE¼ of SE¼	27	5N	5W	MD	25
	SW¼ of SE¼	27	5N	5W	MD	35
	NE¼ of SE¼	28	5N	5W	MD	5
	NW¼ of NE¼	34	5N	5W	MD	2
	NE¼ of NE¼	34	5N	5W	MD	15
	NW¼ of NW¼	35	5N	5W	MD	15
Stockwatering, Incidental Recreation	At the reservoirs					
Total Acres						300

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 128 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year as follows: 49 acre-feet per annum in Reservoir 1 (at POD #1), 30 acre-feet per annum in Reservoir 2 (at POD #2), and 49 acre-feet per annum in Reservoir 3 (at POD #3).

(0000005D)

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
(0000005I)
7. The maximum rate of diversion to offstream storage from POD #1 to Reservoir 3 (POD #3) shall not exceed 2 cubic feet per second.
(0000005J)
8. The capacities of the reservoirs covered under this permit shall not exceed 49 acre-feet for Reservoir 1, 30 acre-feet for Reservoir 2, and 49 acre-feet for Reservoir 3.
(0000005N)
9. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2012.
(0000009)
10. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes, or alternative facilities, have been installed in the dams. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.
(0050043BP)
11. Permittee shall install and properly maintain in the reservoirs staff gages, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs. Permittee shall record the staff gage readings on a weekly basis between November 1 and May 31 and shall provide such readings to Buena Vista Winery, Inc., on a monthly basis. Such readings shall also be supplied to the State Water Resources Control Board with the annual progress report submitted to the Board by Permittee. Permittee shall allow a designated representative from Buena Vista Winery, Inc., and all successors in interest, reasonable access to the reservoirs for the purpose of verifying staff gage readings and determining water levels in the reservoirs.
(0100047)
12. Whenever the prior storage rights of Buena Vista Winery, Inc., under Permits 19618 and 19619 (Applications 28437 and 28438, respectively) are not satisfied by March 1 of any year, water collected to storage under this Permit during the current collection season shall be released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoirs below the previous November 1 staff gage reading.
(0000051)
13. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning protection of beneficial uses of water in San Francisco Bay. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing.
(0000094A)

14. The Permittee shall obtain all necessary federal, state, and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Chief, Division of Water Rights.
(0000203)
15. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.
(0000215)
16. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the rate and quantity of water diverted into Reservoir 3 from POD #1.
(0060046)
17. Permittee has submitted a land use management plan dated October 12, 2000. This plan describes specific measures taken to minimize erosion and sedimentation, protect the riparian corridor, and protect Clean Water Act Section 404 wetlands delineated in the May 5, 1997 Wetland Delineation Report for Dinesh Maniar by Kjeldsen Biological Consultants. Permittee shall maintain features described in said Land Use Management Plan as long as any water is being stored under any permit or license issued pursuant to Applicant 30437. Permittee shall furnish photo documentation which substantiates that measures described in the plan have been implemented. Said photo documentation shall be submitted every three years and be included with permittee progress reports.
(0400500)
18. The SWRCB reserves jurisdiction to impose conditions to conform this permit to SWRCB policy on use of water for frost protection. Action by the SWRCB will be taken only after notice to interested parties and opportunity for hearing.
(0400500)
19. During the season specified in this permit, the total quantity and rate of water diverted, stored, and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion, storage, and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion, storage, and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law.

(0000021A)

20. This permit is subject to the private agreement between permittee and Buena Vista Winery, Inc., dated May 5, 1999, to the extent the agreement covers matters within the Board's jurisdiction.

(0000024)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(0000010)

- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

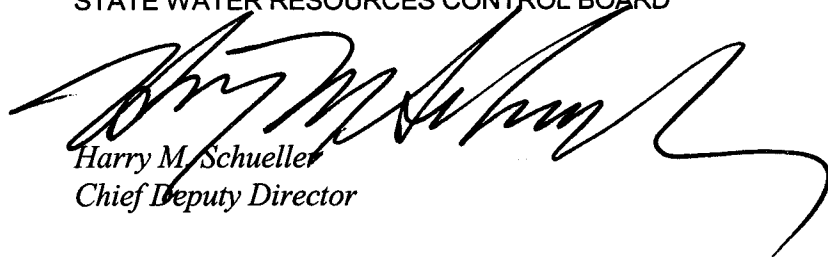
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD



Harry M. Schueller
Chief Deputy Director

Dated: NOV 12 2002